

REMARKS

Claims 1, 3-5, 7, 9, 10 and 12 are currently pending and have been examined on the merits. Claims 1, 3 and 12 are amended hereinabove. Support for amended claim 1 can be found in the specification at page 9, lines 8-9. Claim 3 has been amended to be consistent with claim 1. No new matter has been added.

In the Office Action, the claims have been rejected as follows:

- a) Claim 12 is rejected under 35 U.S.C. § 102(b), as being anticipated by Crandall et al. (RN 24220-48-2 CAPLUS, hereinafter "Crandall");
- b) Claims 1, 3, 7, 9, 10 and 12 are rejected under 35 U.S.C. § 102(e) as being anticipated by Brooks et al. (U.S. Patent No. 7,192,982, hereinafter "Brooks");
- c) Claim 3 is rejected under 35 U.S.C. § 112¶ 2, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants respectfully traverse these rejections.

As an initial matter claim 12 has been amended hereinabove to exclude H from R₂. Accordingly, claim 12 no longer recites the compound [4-(phenylmethoxy)phenyl]diethyl ester propanedioic acid disclosed in Crandal. Thus, it is submitted that Crandall does not anticipate the subject matter of claim 12 and withdrawal of the rejection of claim 12 under 35 U.S.C. § 102(b) is respectfully requested.

Claim 1 has been amended hereinabove to recite that m is either 1 or 2. The meaning of m is disclosed on page 9, lines 8-9 of the specification. Accordingly, newly amended claims 1 and 12 do not include compound 106 disclosed in Brooks, namely

(2S)-3-{4-[3-(2,4-Difluoro-phenoxy)-propoxy]-phenyl}-2-methoxy-propionic acid.

Thus, withdrawal of the rejections of independent claims 1 and 12 and of dependent claims 3, 7, 9-10 as allegedly being anticipated by Brooks under 35 U.S.C. § 102(e) is respectfully requested.

Claim 3 has been amended hereinabove to be consistent with claim 1. Thus, claim 1 now provides a proper antecedent basis for claim 3. Accordingly, withdrawal of the rejection of claim 3 under 35 U.S.C. § 112¶ 2, as allegedly being indefinite is respectfully requested.

This response is being filed concurrently with a Petition for a One Month Extension of Time. Thus, no additional fees are believed to be due. If, on the other hand, it is determined that further fees are necessary or any overpayment has been made, the Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

Pursuant to 37 C.F.R. § 1.136(a), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time of its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated herewith is to be charged to the above-mentioned deposit account.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted

Date: July 7, 2009

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